

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

PARKERSBURG DIVISION

ZACHERY PAUL RUSSELL,

Plaintiff,

v.

CIVIL ACTION NO. 6:13-cv-12705

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiff Zachery Paul Russell's Complaint seeking review of the decision of the Acting Commissioner of Social Security (ECF 2). By Standing Order entered April 8, 2013, and filed in this case on June 3, 2013, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation ("PF&R"). (ECF 4.) Magistrate Judge Tinsley submitted a PF&R on July 30, 2014 (ECF 15), recommending that this Court remand this matter pursuant to the sixth sentence of 42 U.S.C. § 405(g) for the purpose of considering new evidence not previously before the ALJ.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need

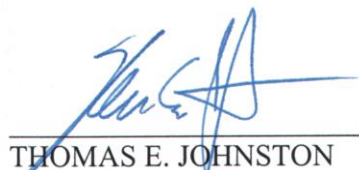
not conduct a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the July 30, 2014, PF&R in this case were due on August 18, 2014. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [ECF 14], **GRANTS IN PART** Plaintiff’s brief in support of judgment on the pleadings [ECF 10] to the extent that Plaintiff seeks remand for the purpose of considering new evidence, **DENIES** the Commissioner’s brief in support of judgment on the pleadings [ECF 13], **VACATES** the final decision of the Commissioner, and **REMANDS** this case to the Commissioner for further proceedings pursuant to the sixth sentence of 42 U.S.C. § 405(g) for the purpose of considering new evidence not previously before the ALJ as outlined in the PF&R. The Court **DIRECTS** the Clerk to place this matter on the Court’s inactive docket until the post-remand proceedings are completed.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 20, 2014



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE